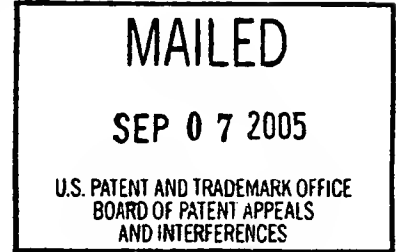


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD T. SHANNON

Application No. 09/997,829



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (BPAI) on August 11, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellants filed an Information Disclosure Statement (IDS) on September 30, 2003. The 1449 in the electronic file has not been properly signed, dated and the references have not been checked or otherwise noted. Therefore, it is not clear from the record whether the examiner considered the statement or not and whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Another matter that requires the examiner's attention pertains to the Appeal Brief filed on November 30, 2004, under 37 CFR § 41.37.

37 CFR § 41.37 (c)(1) states in part:

The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section . . . (ix) Evidence Appendix . . . (x) Related Proceedings Appendix“

The brief in the instant application is lacking headings (ix) Evidence Appendix and (x) Related Proceedings Appendix. The BPAI would like all of the requisite headings placed in the appeal brief filed under 37 CFR § 41.37, whether or not there is any matter relative to these headings (stating “None” if there are none).

Also, the Examiner's Answer filed February 9, 2005 does not comply with the headings as set forth in the new rules under 37 CFR § 41.37 (c). Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner


(1) for proper consideration of the IDS filed on September 30, 2003, notification to appellant in writing of such consideration, and

(2) to obtain a supplemental appeal brief from appellant that includes the missing headings,

- (3) to vacate the Examiner's Answer mailed February 9, 2005, and issue a revised Examiner's Answer in accordance with the new rules effective September 13, 2004, and
- (3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



CRAIG FEINBERG
Program and Resource Administrator
(571) 272-9797

cc: EDWARDS LIFESCIENCES, LLC
LAW DEPT.
ONE EDWARDS WAY
IRVIEN, CA 92614

CF/vh